

CHARTER ORDINANCE NO 218

AN ORDINANCE AMENDING SECTION 2 OF CHARTER ORDINANCE NO. 164, RELATING TO THE AUTHORIZED DISPOSITION OF CASES BY THE MUNICIPAL COURT JUDGE AND TO THE CODE OF PROCEDURE FOR MUNICIPAL COURTS AND REPEALING THE ORIGINAL OF SECTION 2 OF CHARTER ORDINANCE NO. 164.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,  
KANSAS:

SECTION 1. Section 2 of Charter Ordinance No. 164 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“(a) Whenever a person is found guilty of the violation of an ordinance, the municipal judge may, unless otherwise required by law to impose a mandatory, minimum sentence or fine, imprisonment, or both; (1) release the person without imposition of sentence; (2) release the person on probation after the imposition of sentence, without imprisonment or the payment of a fine or a portion thereof, subject to conditions imposed by the court; (3) impose a sentence of house arrest as provided for in Section 249 of chapter 136 of the 2010 Session Laws of Kansas and amendments thereto; or (4) impose such sentence of fine, imprisonment or both, as may be authorized for the ordinance violation.

(b) Whenever a person is found guilty of the violation of an ordinance and there is evidence that the act constituting the violation of the ordinance was substantially related to the possession, use or ingestion of a cereal malt beverage

or an alcoholic beverage by such person, the judge may, in addition to the disposition authorized by subsection (a), order such person to attend and satisfactorily complete an alcohol or drug educational or training program certified by the Administrative Judge or licensed by the Secretary of Social and Rehabilitation Services.

(c) Except as provided in subsection (d), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having violated, while under 21 years of age, Section 4.04.017, 4.04.040, 11.38.158 or Chapter 5.26 of the Code of the City of Wichita, and amendments thereto, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. If the judge finds that the person is indigent, the fee may be waived.

(d) If the person is 18 or more years of age, but less than 21 years of age and is convicted of a violation of Section 4.04.017, and amendments thereto, involving cereal malt beverage, the provisions of subsection (c) are permissive and not mandatory;

(e) The court may impose any conditions of probation or suspension of sentence that the court deems proper, including, but not limited to, requiring that the defendant:

(1) Avoid such injurious and vicious habits, as directed by the court or the probation officer;

(2) avoid such persons or places of disreputable or harmful character, as directed by the court or the probation officer;

(3) report to the probation office as directed;

(4) permit the probation officer to visit the defendant at home or elsewhere;

(5) work faithfully at suitable employment insofar as possible;

(6) remain within the state unless the court grants permission to leave;

(7) pay a fine or costs, applicable to the ordinance violation, in one or several sums and in the manner as directed by the court;

(8) support the defendant's dependents;

(9) reside in a residential facility located in the community and participate in educational counseling, work and other correctional or rehabilitative programs;

(10) perform community or public service work for local governmental agencies, private corporations organized not for profit, or charitable or social service organizations performing services for the community;

(11) perform services under a system of day fines whereby the defendant is required to satisfy fines, costs or reparation or restitution obligations by performing services for a period of days determined by the court on the basis of ability to pay, standard of living, support obligations and other factors;

(12) make reparation or restitution to the aggrieved party for the damage or loss caused by the defendant's crime, in an amount and manner determined by the court and to the person specified by the court; or

(13) reimburse the city, in accordance with any order made under subsection (d), for all or part of the reasonable expenditures by the city to provide counsel and other defense services to the defendant.

(f) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance the judge may order such person to reimburse the city for all or a part of the reasonable expenditures by the city to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the services provided, the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.”

SECTION 2. The original of Section 2 of Charter Ordinance No. 164 is hereby repealed.

SECTION 3. This ordinance shall be published once a week for two consecutive weeks in the official city news paper.

SECTION 4. This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED BY THE GOVERNING BODY, not less than two-thirds of the members elect voting in favor thereof, this 20th day of March, 2012.

---

Carl Brewer, Mayor

ATTEST:

---

Karen Sublett, City Clerk

Approved as to Form:

---

Gary E. Rebenstorf  
City Attorney